

USC Gould

School of Law

Negotiation Theory & Application LAW-712 Fall 2024 Syllabus

Units: 3

Term—Day—Time: Fall 2024 (Tuesdays, 5:00-7:50 PM)

Location: 223

Instructor: Prof. Jason C. Marsili

Office: N/A

Office Hours: By Appointment

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Course Description

Negotiation Theory & Application is premised on the reality that the practice of law often requires the use of negotiation as a tool to advocate on behalf of clients, resolve disputes, and settle legal claims. This course introduces students to the process of negotiation, explores the theoretical approaches underlying various systems of negotiating, and cultivates students' advocacy skills to become effective negotiators. Students will learn each of the major bargaining theories, explore the practical application of each theory in context, and better understand strategic movements in negotiating. Through simulated exercises and reflective discussions, students will also develop skills and confidence as negotiators both as individuals and as client representatives.

Learning Outcomes

By the end of the course, students will:

- Comprehend and appreciate the psychological, emotional, legal, and ethical components comprising the process of negotiating;
- Gain proficiency in the competitive, collaborative, and collective approaches to negotiating and discern opportunities to employ various aspects of each approach in different contexts;
- Develop skills and confidence to better represent both themselves and clients in negotiations;
- Evaluate options based on risk tolerance and prioritize issues in negotiation based on their importance to a client's interest;
- Assess the perspective of the recipient of a communication in negotiation and write and speak appropriately for different audiences during the negotiation process; and
- Keep the client informed about alternative plans/strategies, terms obtained from other side, and consequences of decisions made in negotiation.

Prerequisites or Recommended Preparation

None.

Required Materials (e.g., Textbooks or Other)

Folberg and Golann, *Lawyer Negotiation: Theory, Practice, and Law* (3d ed.)

Fisher and Ury, *Getting to Yes: Negotiating Agreement Without Giving In* (3d ed.)

Additional materials will be posted to Brightspace periodically during the course.

Description and Assessment of Assignments

Journaling

Students will be required to draft a journal comprised of five (5) entries addressing selected topics assigned periodically throughout the semester. Journal entries are intended to foster students' considerations of negotiating in everyday life. Each journal entry shall be no longer than one (1) page in length.

Small Group Exercises and Classroom Discussion

Students will be required to participate in simulated negotiation exercises and engage in classroom discussion reflecting on concepts drawn from the readings.

Midterm Negotiation and Reflective Paper

As part of the midterm assignment, students will engage in a negotiation exercise against the Professor. Students will write a reflective paper addressing their preparation for the exercise, performance during the exercise, and perception of the Professor's tactics during the negotiation.

Final Negotiation and Reflective Paper

Students will participate in a large group, multi-party negotiation that will incorporate various aspects of the course material, require use of many different approaches to negotiation, and comprise both individual and group objectives. Similar to the midterm assignment, students will write a reflective paper addressing their preparation for the exercise, performance during the exercise, and perception of the other participants' positions and approaches to the exercise.

This course must be taken for a numeric grade.

Grading Breakdown

Assignment	% of Grade
Journaling	10
Small Group Exercises and Classroom Discussion	40
Midterm Negotiation and Reflective Paper	20
Final Negotiation and Reflective Paper	30
Total	100

Course Schedule: A Weekly Breakdown

The following outline details the course subject matter, topics, readings, and assignments. Although the outline is subject to change, students will be provided advanced noticed of any scheduling changes and assignment deadlines.

Week	Topics/Daily Activities	Readings and Homework	Assignment
1	Introduction to Course; Review of Syllabus; Overview of the Dispute Resolution Spectrum and Advocacy in Dispute Resolution		
2	The Psychology of Conflict; Fairness, Emotions, and the Ripeness of Conflict; Subjective and Objective Considerations of Conflict	Textbook Chs. 1-2	Journal Entry No. 1 (Due Date TBD)
3	Approaches to Bargaining; Introduction to Distributive Bargaining	Textbook Ch. 3	Journal Entry No. 2 (Due Date TBD)
4	Integrative Bargaining; Collaborative Approaches to Problem Solving	Getting to Yes, pp. 1-95	
5	Negotiation Personalities; Styles and Approaches to Negotiation; Understanding Your Adversary	Textbook Ch. 3	Journal Entry No. 3 (Due Date TBD)
6	<i>Midterm Negotiations</i>		<i>Reflection Paper (Due Date TBD)</i>
7	<i>Midterm Negotiations</i>		<i>Reflection Paper (Due Date TBD)</i>
8	Midterm Review		
9	Chronological Considerations of the Negotiation Process from Start to Finish	Textbook Chs. 5-7	Journal Entry No. 4 (Due Date TBD)
10	Client Interviewing and Strategy Implementation		
11	Case Valuation for Negotiation and Settlement		
12	Introduction to Multiparty Negotiations	Handout	Journal Entry No. 5 (Due Date TBD)
13	<i>Final Negotiations</i>		<i>Reflection Paper (Due Date TBD)</i>
14	<i>Final Negotiations</i>		<i>Reflection Paper (Due Date TBD)</i>

Course-Specific Policies

Class Preparation and Participation

Class discussions will operate on the assumption that students have completed the assigned readings and are prepared to actively participate. Reading assignments and/or exercise roles for each class will be assigned during the previous class.

Attendance and Classroom Behavior

Regular and punctual attendance is expected of all students as well as active participation in classroom discussions and simulated exercises.

Use of Laptop Computers and Electronic Devices

Use of laptop computers, tablets, or any other electronic devices will not be required during class for notetaking purposes. Use of such devices is only permitted for purposes of attending class sessions via Zoom. All necessary substantive information will be provided to students on Brightspace through posted handouts and/or presentation slide decks. Students may want to take additional notes to supplement the information posted on Brightspace, but are not required to do so.

Academic Integrity

The University of Southern California is foremost a learning community committed to fostering successful scholars and researchers dedicated to the pursuit of knowledge and the transmission of ideas. Academic misconduct is in contrast to the university's mission to educate students through a broad array of first-rank academic, professional, and extracurricular programs and includes any act of dishonesty in the submission of academic work (either in draft or final form).

This course will follow the expectations for academic integrity as stated in the USC Student Handbook. All students are expected to submit assignments that are original work and prepared specifically for the course/section in this academic term. You may not submit work written by others or "recycle" work prepared for other courses without obtaining written permission from the instructor(s). Students suspected of engaging in academic misconduct will be reported to the Office of Academic Integrity.

Other violations of academic misconduct include, but are not limited to, cheating, plagiarism, fabrication (e.g., falsifying data), knowingly assisting others in acts of academic dishonesty, and any act that gains or is intended to gain an unfair academic advantage.

Academic dishonesty has a far-reaching impact and is considered a serious offense against the university. Violations will result in a grade penalty, such as a failing grade on the assignment or in the course, and disciplinary action from the university itself, such as suspension or even expulsion.

For more information about academic integrity see the Gould student handbook or the Office of Academic Integrity's website, and university policies on Research and Scholarship Misconduct.

Please ask your instructor if you are unsure what constitutes unauthorized assistance on an exam or assignment or what information requires citation and/or attribution.

Use of AI in this Course

Except where expressly permitted by the instructor, all work submitted for this course, including exams and papers, must be completed by you, personally. Use of artificial intelligence (AI) tools to generate text as part of preparing your work is strictly prohibited. Submission or presentation of material generated by AI, including summarizing, paraphrasing, or editing such material, will be considered a violation of Academic Integrity. For additional information, please refer to the Academic Integrity and Plagiarism portions of the Gould Student Handbook and the USC Student Handbook.

Statement on University Academic and Support Systems

Students and Disability Accommodations:

USC welcomes students with disabilities into all of the University's educational programs. [The Office of Student Accessibility Services](#) (OSAS) is responsible for the determination of appropriate accommodations for students who encounter disability-related barriers. Once a student has completed the OSAS process (registration, initial appointment, and submitted documentation) and accommodations are determined to be reasonable and appropriate, a Letter of Accommodation (LOA) will be available to generate for each course. The LOA must be given to each course instructor by the student and followed up with a discussion. This should be done as early in the semester as possible as accommodations are not retroactive. More information can be found at osas.usc.edu. You may contact OSAS at (213) 740-0776 or via email at osasfrontdesk@usc.edu.

Student Financial Aid and Satisfactory Academic Progress:

To be eligible for certain kinds of financial aid, students are required to maintain Satisfactory Academic Progress (SAP) toward their degree objectives. Visit the [Financial Aid Office webpage](#) for [undergraduate](#)- and [graduate-level](#) SAP eligibility requirements and the appeals process.

Support Systems:

[Counseling and Mental Health](#) - (213) 740-9355 – 24/7 on call

Free and confidential mental health treatment for students, including short-term psychotherapy, group counseling, stress fitness workshops, and crisis intervention.

[988 Suicide and Crisis Lifeline](#) - 988 for both calls and text messages – 24/7 on call

The 988 Suicide and Crisis Lifeline (formerly known as the National Suicide Prevention Lifeline) provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week, across the United States. The Lifeline consists of a national network of over 200 local crisis centers, combining custom local care and resources with national standards and best practices. The new, shorter phone number makes it easier for people to remember and access mental health crisis services (though the previous 1 (800) 273-8255 number will continue to function indefinitely) and represents a continued commitment to those in crisis.

[Relationship and Sexual Violence Prevention Services \(RSVP\)](#) - (213) 740-9355(WELL) – 24/7 on call

Free and confidential therapy services, workshops, and training for situations related to gender- and power-based harm (including sexual assault, intimate partner violence, and stalking).

[Office for Equity, Equal Opportunity, and Title IX \(EEO-TIX\)](#) - (213) 740-5086

Information about how to get help or help someone affected by harassment or discrimination, rights of protected classes, reporting options, and additional resources for students, faculty, staff, visitors, and applicants.

[Reporting Incidents of Bias or Harassment](#) - (213) 740-2500

Avenue to report incidents of bias, hate crimes, and microaggressions to the Office for Equity, Equal Opportunity, and Title for appropriate investigation, supportive measures, and response.

[The Office of Student Accessibility Services \(OSAS\)](#) - (213) 740-0776

OSAS ensures equal access for students with disabilities through providing academic accommodations and auxiliary aids in accordance with federal laws and university policy.

[USC Campus Support and Intervention](#) - (213) 740-0411

Assists students and families in resolving complex personal, financial, and academic issues adversely affecting their success as a student.

[Diversity, Equity and Inclusion](#) - (213) 740-2101

Information on events, programs and training, the Provost's Diversity and Inclusion Council, Diversity Liaisons for each academic school, chronology, participation, and various resources for students.

[USC Emergency](#) - UPC: (213) 740-4321, HSC: (323) 442-1000 – 24/7 on call

Emergency assistance and avenue to report a crime. Latest updates regarding safety, including ways in which instruction will be continued if an officially declared emergency makes travel to campus infeasible.

[USC Department of Public Safety](#) - UPC: (213) 740-6000, HSC: (323) 442-1200 – 24/7 on call

Non-emergency assistance or information.

[Office of the Ombuds](#) - (213) 821-9556 (UPC) / (323-442-0382 (HSC)

A safe and confidential place to share your USC-related issues with a University Ombuds who will work with you to explore options or paths to manage your concern.

[Occupational Therapy Faculty Practice](#) - (323) 442-2850 or otfp@med.usc.edu

Confidential Lifestyle Redesign services for USC students to support health promoting habits and routines that enhance quality of life and academic performance.